

THE ATLANTIC: OUTDATED LAWS AND SUBSIDIES—HOW DID IT GET SO BAD?

Congressman Jim Cooper writes in The Atlantic about the obsolete laws that are harming Congress and the nation. This article is part of The Atlantic's new ongoing series, "America the Fixable."

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By Jim Cooper

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Would you be surprised to hear that our government is just like a middle-aged American who, having eaten fast food for decades, now faces heart trouble in his golden years? Aging nations have arteries clogged with obsolete laws, slowing blood flow and preventing oxygen from reaching all parts of the body politic. Physicians call this arteriosclerosis; historians see decline of empire.

It happens so slowly and naturally that no one notices. Legislators want to prove that they care about children, seniors, veterans, etc. by creating programs to benefit them. Elected officials are so busy campaigning that they (and their staffs) don't review the statute books to see which programs already exist. They certainly don't check to see which ones are working, and which are not. As a result, each new generation of politicians simply adds another layer of spending and bureaucracy.

Immortality awaits the legislator fortunate enough to have a significant law named after him. Think of Pell grants or Stafford loans for students, Sarbanes-Oxley to regulate Wall Street, or the Hyde Amendment on abortions.

Conversely, there's little or no reward in repealing laws, only the risk of offending people who benefit from the existing programs. Any politician who's ever been re-elected knows that friends come and go; enemies accumulate.

This is why there are dozens, sometimes hundreds of overlapping and duplicative programs for favored constituencies, as opposed to one or two programs that really deliver. This also explains why our laws are so complex that they are becoming almost impossible to understand.

A small but classic example from my jurisdiction on the House Armed Services Committee is the mohair subsidy, which

originated post WWII out of concern about the future availability of wool for military uniforms. Today, more than a half century later -- when military uniforms are largely composed of synthetic material -- the program still benefits goat herders in Texas, now under the friendly jurisdiction of the Agriculture Committee. The subsidy was seemingly killed in the mid-90s and again in 2001, but it was resuscitated each time by the loving care of special interests. And while it was defunded again last year, the underlying authorizing legislation remains on the books, ready to revive the subsidy at any moment.

Due to the accumulation of increasingly creaky laws, Congress has lost control of budgeting itself. The vast majority of federal spending is now on automatic pilot, either in the form of mandatory spending (\$2.3 trillion, annually) or tax expenditures (\$1.3 trillion). Congress could adjourn for a year without slowing spending growth. When in session, we spend 90 percent of our time on the remaining 30 percent of the budget, discretionary spending -- what most people think of as government. Congress has been on autopilot for so long that we have forgotten how to fly the plane with our own hands.

Worse yet, the Ways & Means and Finance Committees have become such leaky buckets that federal revenues have drained to levels not seen since 1950. Congress intended to control spending when it created the first Appropriations Committee in 1865. Congress never dreamed that appropriations would one day be eclipsed by tax loopholes, and direct spending by indirect spending. But because of blinkered, outdated committee jurisdictions, Congress' right hand does not know what its left hand is doing.

Congress seems comfortable with this reduced role. We don't realize that by authorizing entitlement programs -- perpetual mandatory spending -- and hiding some of our biggest expenditures in unaccountable tax loopholes, we have diminished our constitutional duty to appropriate funds (Art. I, Sec. 9). In fact, we hide our biggest problems by keeping them off-budget, exempting ourselves from normal accounting rules. Congress has legalized its own budget blindness.

Very few legislators have ever had to eat their own cooking, to run a business governed by the cumulative weight of the laws and regulations they supported. The most famous example is George McGovern who, after years as a liberal U.S. Senator from South Dakota and an unsuccessful presidential campaign, retired to run an inn in Connecticut. He wrote an article for The Wall Street Journal decrying all the useless regulations that burdened his business. This, of course, delighted his conservative critics but did nothing to lighten the regulatory burden.

How can we force Congress to clean house? Absent a crisis -- the only proven prod to congressional reform -- voters must get tough. Not only should constituents be suspicious of new initiatives and refuse to be seduced by "new and improved" bureaucracies, they should demand that their elected officials be diligent and competent in framing legislation. But today, Congress is a part-time job, with about 90 days a year spent in Washington and 270 days back home, mostly time spent campaigning and fundraising. It is difficult to know what's in your committee's jurisdiction with so little time for hearings and research. It is impossible to be conversant with all the issues facing the nation.

Washington has become so unpopular that, if current trends continue, congressional candidates will run on the platform of never visiting the District of Columbia. Politicians are terrified of losing touch with folks back home but content to be clueless about government's failure to fix real problems.

Congress must reform itself. Why isn't there a committee whose sole purpose is to clean up the federal code -- to repeal or modify the mess that its predecessors have left behind? A few watchdog groups are totaling the cost of measures that

today's legislators are co-sponsoring in an effort to curb their appetite, but such efforts should be more comprehensive and visible.

Some legislators favor higher-fat legislation more than others, laws that are sure to clog the national arteries for years to come.

Wouldn't it be great to know who they are, and to bust their pork chops?